

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CERVECERIA MODELO, S.A. DE C.V. and
MARCUS MODELO, S.A. DE C.V.,
Plaintiffs,

-against-

07 CV 7998

USPA ACCESSORIES LLC d/b/a.
CONCEPT ONE ACCESSORIES,
Defendant.

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42 West 38th Street
New York, New York
March 31, 2008
10:13 A.M.

DEPOSITION of JEAN MARIE RUFFINI, the Witness
appearing on behalf of the Plaintiff herein, taken
pursuant to Notice, and held at the above time and
place before Susan Marrone, a stenotype reporter and
Notary Public of the State of New York.

1 JEAN MARIE RUFFINI

2 *** (NON-CONFIDENTIAL PORTION CONTINUES)

3 (Defendant's Exhibit 17, License
4 Agreement between Marcas Modelo and Concept
5 One Accessories, marked for Identification.)

6 Q Let me show you Exhibit 17. It's a
7 title license agreement between Marcas Modelo and
8 Concept One Accessories bearing a date of
9 January 1, 2007. Do you recognize Exhibit 17?

10 A Yes.

11 Q Is it your signature on Page 10?

12 A Yes.

13 Q Do you recognize Juan Fernandez's
14 signature as well?

15 A Yes.

16 Q And that's it on Page 10?

17 A There's --

18 Q Is that Juan Fernandez's initials?

19 A I believe so, yes.

20 Q And do you recall executing this
21 document on or about January 1st, 2007?

22 A Signing?

23 Q Yes.

24 A Yes.

25 Q Do you recall when you signed this

1 JEAN MARIE RUFFINI

2 document?

3 A No.

4 Q Who was present?

5 A Nobody, myself.

6 Q Was Juan Fernandez's initials on the
7 document when you signed it?

8 A Yes.

9 Q And Mr. Hafif's as well?

10 A I don't remember.

11 Q When you signed it, you had an
12 opportunity to review it?

13 A Yes.

14 Q You had read Paragraph 2.1 that granted
15 the licensor certain rights in license products
16 and certain territories but only in such form and
17 manner as approved in advance by licensor under
18 Section 3 of this agreement; do you see that?

19 A Yes.

20 Q You were aware of that at the time?

21 A Yes.

22 Q You had also read Paragraph 3, quality
23 standards and approval?

24 A Yes.

25 Q And when Concept One submitted designs

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CERVECERIA MODELO, S.A. DE C.V. and MARCAS
MODELO S.A. DE C.V.,

Plaintiffs,

Index No.

-against-

07 CV 7998

USPA ACCESSORIES LLC d/b/a CONCEPT ONE
ACCESSORIES,

Defendant.

-----X

42 West 38th Street
New York, New York

April 8, 2008
9:30 a.m.

DEPOSITION OF JUAN FERNANDEZ, a Witness
appearing on behalf MODELO, the Plaintiff herein,
taken by the Defendant, pursuant to Order, and
held at the above-noted time and place, before
KAREN GOLDSTEIN, a Notary Public of the State
of New York.

1 JUAN FERNANDEZ

2 went in as him.

3 Q Does that mean, it was you, who
4 approved this design, for Jorge Perez, on
5 April 13, 2007?

6 A Yes.

7 Q And it was you, who approved this
8 design, on behalf of Jose Pares, on April 13,
9 2007?

10 A Yes.

11 Q Do you recall why you did that?

12 A I don't recall the specifics of
13 this decision, why I did that.

14 Q Did you ever inquire of H3, with
15 respect to this particular design?

16 A I don't recall.

17 MR. SAUNDERS: Off the record.

18 (Whereupon, a discussion was held
19 off the record.)

20 Q Let me show you Exhibit 17. The
21 license agreement between Marcas Modelo and
22 Concept One. Can I direct your attention to
23 page 10. Is that your initials?

24 A Yes.

25 Q Is that your handwriting. The

1 JUAN FERNANDEZ

2 words "Juan Fernandez"?

3 A Yes.

4 Q Do you know when you signed this?

5 A Not the exact date.

6 Q Approximately?

7 A In the last two months of 2006.

8 Q You can't be more specific than
9 that?

10 A I don't really recall.

11 Q Were you present when Jean Marie
12 Ruffini placed her signature on the document?

13 A I don't recall.

14 Q Let me direct your attention to
15 page 11. Are those your initials on the
16 bottom of the page?

17 A Yes.

18 Q Yes?

19 A Yes.

20 Q And, page 12, is that your
21 handwriting?

22 A Yes.

23 Q Could you read it?

24 A This -- my initials? This?

25 Q Yes.

Steven Gerber

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

3

Civil Action No. 07 CV 7998 (HB)

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CERVECERIA MODELO, S.A. DE C.V. and

MARCAS MODELO, S.A. DE C.V.,

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Plaintiffs,

6

vs.

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8 USPA ACCESSORIES, LLC d/b/a CONCEPT ONE
ACCESSORIES,

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Defendants.

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DEPOSITION OF STEVEN GERBER

15

New York, New York

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Thursday, May 1, 2008

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24 Reported by:

Toni Allegrucci

25 JOB NO. 202557

ORIGINAL

Steven Gerber

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1 S. GERBER

2 of the license agreement?

3 MR. TOKAYER: Objection.

4 A. All the time.

5 Q. Okay. Do you provide comments to
6 license agreements to your clients or do you
7 provide them directly to whoever the opposing
8 counsel is or the licensor?

9 A. Both.

10 Q. Were you asked to review the
11 Procermex license agreement in this case?

12 A. No.

13 Q. Were you asked to review the
14 Marcas --

15 A. Well, when you say was I asked to
16 review it, ever?

17 Q. Yes, ever?

18 A. Well, I reviewed, I looked at the
19 license agreement with Corona, I don't know
20 about Procermex.

21 Q. Okay. Do you --

22 A. Not Corona, with whatever the name
23 of the company is.

24 Q. With Marcas Modelo?

25 A. Yeah.

Steven Gerber

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1 S. GERBER

2 Q. Okay. Do you recall if you ever
3 reviewed the agreement that Concept One had
4 entered into with Procermex prior?

5 A. I don't recall that I did.

6 MS. DIAKOS: Can we mark this.

7 (Gerber Exhibit 1, document, marked
8 for identification, as of this date.)

9 Q. I show you what's been marked as
10 Exhibit 1, it's a license agreement between
11 Marcas Modelo, Concept One, dated January 1,
12 2007, it bears production numbers Modelo
13 03662 to Modelo 03673.

14 MR. TOKAYER: I think it's, it
15 bears an effective date of January 1,
16 2007.

17 MS. DIAKOS: That's right.

18 Q. Let me know when you've had a
19 chance to review it?

20 A. I don't understand, what do you
21 want me to do?

22 Q. Just let me know when you've
23 finished reviewing it?

24 A. I mean, I looked, I looked at it
25 here.

Steven Gerber

Page 17

1 S. GERBER

2 Q. Okay. When was the first time you
3 saw this license agreement?

4 A. I don't know.

5 Q. Do you know if you reviewed this
6 license agreement prior to the time it was
7 entered into by Concept One?

8 A. I don't believe I did.

9 Q. Okay.

10 (Mr. Saunders exits.)

11 Q. Do you know why you reviewed it the
12 first time you reviewed it?

13 A. I believe so.

14 Q. Okay. Why?

15 A. My client called me to tell me that
16 designs were not being approved by the
17 licensor, and what should he do.

18 Q. Do you recall when your client
19 called you to tell you that designs weren't
20 being approved by Marcas Modelo?

21 A. I think it was sometime in 2007,
22 maybe February, March, could be earlier, I
23 don't know.

24 Q. Okay. Now, did your client tell
25 you that designs weren't being approved or

UNITED STATES DISTRICT COURT

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MODELO S.A. DE C.V.,

Plaintiffs,

-against- Index No.
07 CV 7998

USPA ACCESSORIES LLC d/b/a CONCEPT ONE
ACCESSORIES,

Defendant.

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666 Fifth Avenue
New York, New York

July 25, 2008
9:47 a.m.

EXAMINATION BEFORE TRIAL of MODELO, the Plaintiff herein, by JOSE PARES, taken by the Defendant, pursuant to Order, held at the above-noted time and place, before KAREN GOLDSTEIN, a Notary Public of the State of New York.

1 JOSE PARES

2 tough from this photocopy to recognize a
3 letter or something like that. I'm not an
4 expert on that, too.

5 Q Now, you see it also says --
6 well, before we got to, if you could turn to
7 page 10 of the agreement.

8 A (Witness complies.)

9 Q Do you see the signatures of Mr.
10 Fernandez and Ms. Ruffini?

11 A I see these two signatures, yes.

12 Q Was Mr. Fernandez employed by
13 Marcas Modelo?

14 A No.

15 Q Was Ms. Ruffini employed by
16 Marcas Modelo?

17 A No. As I said Marcas Modelo has
18 no employees.

19 Q Did Grupo Modelo USA on January
20 1st 2007 have authority to issue licenses
21 for Cerveciera Modelo?

22 A To issue licenses for GModelo
23 USA?

24 Q To grant licenses on behalf of
25 Cerveciera Modelo.

1 JOSE PARES

2 A I need a little bit of advice
3 from my lawyer in one thing. I don't fully
4 know the extent of the word "grant." And
5 I'm not familiar with that part. Just, I
6 need to understand that part of the
7 question. So, the point is --

8 Q Okay. I don't think I used the
9 word "grant". Let me see if I can ask you
10 another question.

11 A Yes, please.

12 Q And I'm not asking for a legal
13 conclusion.

14 A No, no, no, no, no.

15 Q I'm asking for your
16 understanding.

17 A Exactly. That's the point.

18 Q Was it your understanding that
19 Grupo Modelo USA --

20 A GModelo USA.

21 Q Sorry. Yes. Had the authority
22 to issue licenses to licensees on behalf of
23 Cerveciera Modelo as of January 1, 2007?

24 A No. We have already covered
25 that. GModelo USA provides a service in